

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:07CV215-H**

**LIBERTY MUTUAL FIRE
INSURANCE COMPANY,**

Plaintiff,

v.

**TRANSPORT INDUSTRIES, L.P.,
CHEETAH TRANSPORTATION, LLC,
PAULO P. OLIVEIRA, and
STEFANIE RHENAE OLIVEIRA,
Administratrix of the estate of Rhenae
Bunning Oliveira, Deceased,**

Defendants.

ORDER

THIS MATTER is before the Court on the “Plaintiff’s Motion to Strike” (document #12) filed July 27, 2007.

In the subject Motion, the Plaintiff seeks to strike the following from Defendant Stefanie Rhenae Oliveira’s Answer: “[t]hat this answering Defendant asks that the Court dismiss the Plaintiff’s Complaint pursuant to Rule 12(b)(1)[,] (2)[,] (3)[,] and (6) of the Federal Rules of Civil Procedure.” The Plaintiff argues that this is an improper Motion to Dismiss because “Defendant Oliveira has failed to state with particularity the grounds for the Motion to Dismiss and has failed to file a brief with the Court that would provide evidentiary support for the assertions made in the Motion to Dismiss.”

Local Rule 7.1(A) requires that a motion state its grounds with particularity and Local Rule 7.2 requires the filing of a brief in support of such a motion. Thus, to the extent Defendant Stefanie Oliveira was attempting to file a Motion to Dismiss requiring a response from the Plaintiff or

requiring resolution by the Court, she has failed to do so; however, to the extent Defendant Stefanie Oliveira was merely attempting to preserve her right to assert a motion under Federal Rule of Civil Procedure 12(b), which would have to be supported by a brief prior to being considered an outstanding motion, the challenged language is sufficient. Accordingly, the Plaintiff's Motion to Strike must be **DENIED**.

SO ORDERED.

Signed: July 30, 2007

Carl Horn, III

Carl Horn, III
United States Magistrate Judge

